



PRELIMINARY DRAFT
No. 3468

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 29-1-7-15.1; IC 29-2-1-6.

Synopsis: Probate administration. Specifies that in the case of an unsupervised estate in which it has been determined that a decedent died intestate, a will may not be probated unless it is presented before a closing statement is filed. Provides that the will of a decedent may be presented to the court for probate and admitted to probate at any time if no estate proceedings have been commenced for the decedent and an asset of the decedent remains titled or registered in the name of the decedent. Provides that the will may be probated for the sole purpose of transferring ownership of the asset. Provides that a domiciliary foreign personal representative may exercise all powers of a local unsupervised personal representative.

Effective: July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-1-7-15.1, AS AMENDED BY P.L.95-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate before:

(1) the court decrees final distribution of the estate; **or**

(2) a closing statement has been filed in an unsupervised estate.

(b) No real estate situate in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is situate, or to pay any costs of administration of any decedent's estate, unless letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death.

(c) The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

(1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or

(2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(d) **Except as provided in subsection (e),** the will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

(1) Three (3) years after the individual's death.

(2) Sixty (60) days after the entry of an order denying the probate



1 of a will of the decedent previously offered for probate and
 2 objected to under section 16 of this chapter.

3 (3) Sixty (60) days after entry of an order revoking probate of a
 4 will of the decedent previously admitted to probate and contested
 5 under section 17 of this chapter.

6 However, in the case of an individual presumed dead under
 7 IC 29-2-5-1, the three (3) year period commences with the date the
 8 individual's death has been established by appropriate legal action.

9 **(e) This subsection applies with respect to the will of an**
 10 **individual who dies after June 30, 2011. If:**

11 **(1) no estate proceedings have been commenced for a**
 12 **decedent; and**

13 **(2) an asset of the decedent remains titled or registered in the**
 14 **name of the decedent;**

15 **the will of the decedent may be presented to the court for probate**
 16 **and admitted to probate at any time after the expiration of the**
 17 **deadline determined under subsection (d) for the sole purpose of**
 18 **transferring the asset described in subdivision (2). A will presented**
 19 **for probate under this subsection is subject to all rules governing**
 20 **the admission of wills to probate.**

21 SECTION 2. IC 29-2-1-6 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2011]: Sec. 6. A domiciliary foreign personal
 23 representative who has complied with section 5 may exercise as to
 24 assets in this state all powers of a local **unsupervised** personal
 25 representative and may maintain actions and proceedings in this state
 26 subject to any conditions imposed upon non-resident parties generally.

